

REMARKS

The claims have been amended in order to overcome the grounds of rejection set forth in the previous official letter and to more particularly point out and distinctly claim the invention. Inasmuch as no new matter is introduced by the amendments, entry thereof is respectfully requested.

The Examiner has rejected claims 1, 3-7 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states:

“---In claim 1 "chondroitin" is misspelled---”

By the above amendment, the misspelling has been corrected.

The Examiner further states:

“---it is unclear as to whether the molecular weight limitation following "hyaluronic acid" applies only to the latter or to chondroitin as well---”.

Although applicants are convinced that the Examiner is incorrect in the stated conclusion, the claims have been amended in order to remove all doubt whatsoever as to the intended meaning of the claim language.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

The Examiner has further rejected Claims 1, 3-7 under 35 U.S.C. 101 because:

“---the claimed invention lacks patentable utility. Applicants claim 'preventing', however, such a limitation is not credible because it suggests protection can be achieved for an unlimited period of time under any and all conditions---”.

This ground of rejection is respectfully traversed. This ground of rejection is respectfully traversed. The Examiner's attention is directed to the fact that this same

terminology is employed in U.S. patents 5,140,016; 5,632,979; 6,010,692; 6,464,970; 6,706,780 and 5,350,573. Since the Examiner has seen fit to reject the present claims over the claims of these patents on the ground of nonstatutory obviousness-type double patenting over the claims of these patents, the use of the disputed language in the present claims cannot be objectionable if it is not objectionable in the issued patents.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of claims 1 and 7 under 35 U.S.C. 102(b) as being anticipated by Soll is respectfully traversed. The Examiner states, in support of this ground of rejection:

“---Soll et al teach minimizing damage to endothelial and epithelial cells by treatment with chondroitin sulfate prior to surgery (abstract). A molecular weight of 50,000/100,000 is disclosed (column 3 lines 8-10). A concentration of 0.5-30% is disclosed (column 5 lines 64-66). A protective coating is specified (column 5 lines 31-32)---”.

It is respectfully pointed out that the disclosure of Soll is limited to the use of chondroitin sulfate as an active agent in the disclosed method. Inasmuch as the amended claims expressly exclude the use of chondroitin sulfate, the claims are not anticipated by the disclosure of Soll.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

The Examiner has rejected claims 1, 3-7 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, stating:

“---The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. Because the claimed 'preventing' is not credible, applicants are not enabled for this limitation---".

This ground of rejection is respectfully traversed. The Examiner's attention is directed to the fact that this same terminology is employed in U.S. patents 5,140,016; 5,632,979; 6,010,692; 6,464,970; 6,706,780 and 5,350,573. Since the Examiner has seen fit to reject the present claims over the claims of these patents on the ground of nonstatutory obviousness-type double patenting over the claims of these patents, the use of the disputed language in the present claims cannot be objectionable if it is not objectionable in the issued patents.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5; 1-5; 1-4; 1-5; 1-4; and 1-7, 12, 14 of U.S. Patent No. 5,140,016; 5,350,573 (and not 5,340,016); 5,632,979; 6,010,692; 6,464,970; and 6,706,780 is believed to be overcome by the terminal disclaimer filed herewith. It is presumed that the Examiner intended to indicate US patent 5,350,573 rather than 5,340,016.

Applicants have earnestly endeavored to place the application in condition for allowance and an early action toward that end is respectfully requested.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

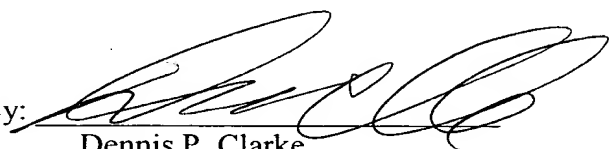
The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T2315-904733) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is

required in connection with the filing of this paper and has not been separately requested,
such extension is hereby requested.

Respectfully submitted,

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By:


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